



A handwritten signature in black ink, appearing to read "Michael S. McManus", is written over a light gray rectangular background.

Hon. Michael S. McManus
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re)	Case No. 09-53373
)	
DAVID L. NOVOTNY,)	Chapter 13
)	
Debtor.)	Date: March 5, 2010
)	Time: 1:30 p.m.
)	
)	

MEMORANDUM

Movant HSBC Bank USA, N.A., seeks relief from the automatic stay with respect to real property located in Gardnerville, Nevada.

Neither the debtor nor the trustee have filed written opposition on or before 14 days prior to the hearing as required by Local Bankruptcy Rule 9014(d)(1). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

Despite the absence of opposition, the motion will be

1 dismissed as moot.

2 The movant holds a claim secured by a deed of trust that
3 encumbers the debtor's real property. The confirmed plan, which
4 identifies the movant as Wells Fargo Home Equity, provides for
5 the surrender of that property in order to satisfy the movant's
6 secured claim. See 11 U.S.C. § 1325(a)(5)(C). The plan also
7 provides that as to real property secured claims, the entry of
8 the confirmation order shall constitute an order modifying the
9 automatic stay to allow the holder of the secured claim to
10 exercise its remedies under applicable non-bankruptcy law.

11 The plan was confirmed on January 8, 2010. Therefore, the
12 movant already has the relief requested in this motion. This
13 motion is unnecessary.

14 Because the movant has not established that the value of its
15 collateral exceeds the amount of its secured claim, and because
16 the motion was unnecessary, the court awards no fees and costs.
17 11 U.S.C. § 506(b).

18 Counsel for the movant shall lodge a conforming order.
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